

City of Raleigh Department of City Planning One Exchange Plaza Raleigh, NC 27601 (919) 996-2682 www.raleighnc.gov

Case File: A-136-17

Property Address: 505 Martin Luther King Jr. Boulevard

Property Owner: City of Raleigh

Project Contact: Hunt Choi

Nature of Case: A request for a 2' variance from the additional right-of-way dedication

requirements and the provision for an additional 5' utility easement, both called for in Section 8.5.1. of the Unified Development Ordinance, resulting in no right-of-way or easement dedication along Chavis Way adjacent to the site of the John Chavis Memorial Park as part of a park improvement site plan which includes a

new community center and central plaza, along with renovations to the

playground and original Carousel House on a 20.64 acre site zoned Residential-

10 and located at 505 Martin Luther King Jr. Boulevard.



505 Martin Luther King Jr. Boulevard – Location Map

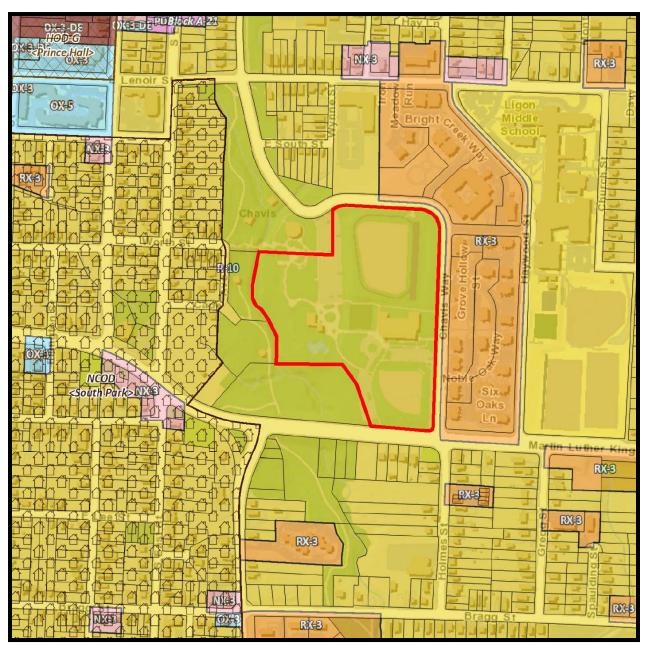
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To BOA: 12-11-17

Staff Coordinator: Eric S. Hodge, AICP

ZONING

DISTRICTS: Residential-10



505 Martin Luther King Jr. Boulevard - Zoning Map

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VARIANCE STANDARDS: In accordance with UDO <u>§10.2.10 Variance</u>, before a variance request is granted, the Board of Adjustment shall show all of the following:

To Legalize the Existing Structure:

- 1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- 2. The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- The hardship did not result from actions taken by the applicant or the
 property owner. The act of purchasing property with knowledge that
 circumstances exist that may justify the granting of a variance shall not
 be regarded as a self-created hardship.
- 4. The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

Article 8.5 Existing Streets

8.5.1. General Provisions

This Article describes guidelines for the construction of street improvements and streetscapes for existing streets throughout the City. It is intended to address when street and streetscape improvements are appropriate through the application of the preapproved street types in this chapter. The City has an approved Street Design Manual which provides further details.

A. Intent

- 1. The intent of the existing streets regulations is to provide the application of the street typology map and the streetscapes to existing streets to reflect the character and context of areas in the City.
- 2. The existing street regulations provide adequate travel lanes for vehicles, cyclists and pedestrians.
- 3. Administrative Design Adjustments approved by the Public Works Director pursuant to Sec. 8.5.1.G. may be appropriate when an existing building would impede expansion, when transitioning from a different street section or where strict compliance with this UDO and the Raleigh Street Design Manual would pose a safety hazard.

B. Applicability

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1. General

a. Any new development activity and any addition or repair subject to the requirements of Sec. 10.2.5.andSec. 10.2.8. **must meet street type** and streetscape standards of this Article for existing streets abutting the subject property.

- b. The streetscape types of Sec. 8.5.2. shall be applied based on the zoning and frontage type applied to the subject property.
- c. Unless otherwise specifically provided, no permit for the construction, reconstruction, extension, repair or alteration of any building, structure or use of land and no building or land or any part of any building or land, may be occupied or used until the streetscape requirements of this Article have been met.
- d. Gated public streets shall not be permitted.
- e. Administrative design adjustments approved by the Public Works Director pursuant to Sec. 10.2.18. may be appropriate when an existing building would impede roadway expansion; when transitioning from a different street section; or where strict compliance with this UDO and the Raleigh Street Design Manual would pose a safety hazard.

2. Additions and Repairs

- a. A building or site may be renovated or repaired without meeting the streetscape standards, provided there is no increase in gross floor area or improved site area.
- b. When a building or site is increased in gross floor area or improved site area cumulatively by more than 10%, the streetscape provisions of this Article must be met.

3. Change in Use Exempt

A change in use does not trigger application of the **streetscape** requirements of this Article.

C. Letter of Acceptance

- 1. Sidewalks, streets and street trees must be installed prior to the issuance of a letter of final acceptance.
- 2. A conditional letter of acceptance may be issued in accordance with Sec. 8.1.3. where the Public Works Director determines that landscaping in the public right-of-way cannot be installed due to inclement weather conditions, a surety in the amount of 125% of the value of the landscaping shall be provided to the City, in accordance with Sec. 8.5.1.B.The landscaping improvements shall be installed within 12 months of issuance of the conditional letter of acceptance.
- 3. Where determined appropriate by the Public Works Director, the sidewalk and street tree planting area may occur on private property subject to an easement for public access.

D. Tree Planting

- 1. Unless otherwise noted below, all trees planted in accordance with this Article must be shade trees.
- 2. Where overhead utilities exist, 1 understory tree shall be planted every 20 feet on center, on average.

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3. All required street trees must meet the design and installation requirements of Sec. 7.2.7. 4. Where development abuts a street controlled by the North Carolina Department of Transportation, street trees may not be required in the right-of-way, at the discretion of the North Carolina Department of Transportation. In this instance, a Type C2 street protective yard is required in accordance with Sec. 7.2.4.

E. Fee-in-Lieu

Where the Planning and Development Officer determines that construction of improvements would result in the improvement of less than $\frac{1}{2}$ of a linear block face; an equivalent payment in lieu of construction may be required.

F. Adopted Streetscape Plans

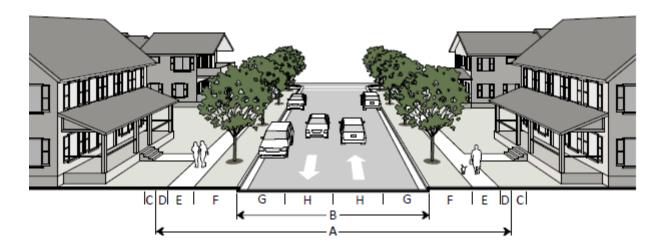
- 1. In the event an adopted streetscape plan regulates streetscape improvements, the adopted Plan shall control. The adopted streetscape plans are contained within the Raleigh Street Design Manual.
- 2. The requirements of this Article are intended to serve as minimum standards. Where a streetscape plan adopted before the effective date of this UDO sets a lower standard, the standard in this Article shall prevail.
- 3. The City Council may modify an adopted Streetscape Plan following written notice to property owners along the street.

G. Administrative Design Adjustment Findings

- 1. The Public Works Director may in accordance with Sec. 10.2.18. approve an existing street design adjustment, subject to all of the following findings:
- a. The approved adjustment meets the intent of this Article;
- b. The approved adjustment conforms with the Comprehensive Plan and adopted City plans:
- c. The approved adjustment does not increase congestion or compromise safety;
- d. The approved adjustment does not create additional maintenance responsibilities for the City; and
- e. The approved adjustment has been designed and certified by a Professional Engineer.

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Chavis Way: Neighborhood Street



Width			
A Right-of-way width	64'		
B Back-of-curb to back-of-curb	36'		
Streetscape			
C Utility placement, easement (min)	5'		
D Maintenance strip (min)	2'		
E Sidewalk (min)	6'		
F Planting area (min)	6'		
Travelway			
G Parallel parking lane	8'		
H Travel lane	10'		
General			
Walkway type	Sidewalk		
Planting type	Tree lawn		
Tree spacing	40' o.c. avg		
Parking type	Parallel		

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Application for Variance



Department of City Planning | 1 Exchange Plaza, Suite 300 | Raleigh, NC 27601 | 919-996-2626 Submit application to: Development Services Customer Service Center, 1 Exchange Plaza, Suite 400, Raleigh, NC 27601

NATURE OF REQUEST	OFFICE USE ONLY
Nature of variance request (if more space is needed, submit addendum on separate sheet): Eliminate RoW dedication on Chavis Way due to location of existing mature trees and existing slope conditions in the designated historic park that is listed on the National Register and protected by National Park Service's Land and Water Conservation Fund.	Transaction Number
Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions, or Pre-Submittal Conferences. If this property was the subject of a previous variance request, provide the case number.	

GENERAL INFO	PRMATION		
Property Address 505 MARTIN LUTHER KING JR. BL	Date 10/23/17		
Property PIN 1703953754, 1703958305	Current Zoning R-10		
Nearest Intersection CHAVIS WAY / MARTIN LUTHER	Property size (in acres) 5.45+15.19=20.64		
Property Owner CITY OF RALEIGH - PRCR, DIANE SAUER	Phone 919.996.3285	Fax 919.996.7061	
Owner's Mailing Address P.O. BOX 590 RALEIGH, NC 27602	Email Diane.B.Sauer@raleighnc.gov		
Project Contact Person FRED BELLEDIN, CLEARSCAPES	Phone 919.821.2775	Fax N/A	
Contact Person's Mailing Address 311-200 W. MARTIN ST. RALEIGH, NC 27601	Email fbelledin@clearscapes.com		
Property Owner Signature Out Save	Email diane.sauer@ra	leighnc.gov	
Notary Sworn and subscribed before me this	Notary Signature and Seal Standard Standard Expiration Expiration	DIAGNIFATVIS 18 M. FRATVIS 18 M. FRATVIS	

Variance Request for John Chavis Memorial Park (505 Martin Luther King Blvd)

John Chavis Memorial Park (JCMP) is a designated historic park. It was listed on the National Register of Historic Places on 4/19/2016 following a community-led effort to recognize the park for its historical significance as the most intact of only a few separate-but-equal parks remaining in North Carolina. A link to the historic designation is included below for reference:

http://www.nps.gov/nr/feature/places/pdfs/16000188.pdf

Additionally, the entire park property (including the adjacent parcel leased from the State of North Carolina) received Land and Water Conservation Fund (LWCF) assistance through National Park Service (NPS) in 1972 and has been federally protected ever since for outdoor recreation.

JCMP is bounded on the east by Chavis Way, which runs from Martin Luther King Blvd at the southern edge of the park to E Lenoir St at the northern edge of the park. The Chavis Way RoW is currently 60' wide. Per Transportation staff, it is designated as 64' RoW width, which would entail a 2' RoW dedication + an additional 5' utility easement.

We are respectfully requesting a variance to eliminate the RoW dedication and utility easement for Chavis Way based on the existing regulatory requirements associated with the LECF status as well as the unique existing conditions of the park, including 1) existing stream buffer, 2) existing topography at historically-designated picnic shelter and stone bridge wall, and 3) presence of existing mature trees, and 4) existing head-in street parking. The basis for this request is as follows:

Land and Water Conservation Fund Requirements

According to the Federal Financial Assistance Manual Volume 69, Chapter 8, property acquired or developed with LWCF assistance shall be retained and used for public outdoor recreation. Any property so acquired and/or developed shall not be wholly or partly converted to other than public outdoor recreation uses without the approval of NPS pursuant to Section 6(f)(3) of the LWCF Act. This section of the Act assures that once an area has been funded with L&WCF assistance, it is continually maintained in public recreation use unless NPS approves substitution property of reasonably equivalent usefulness and location and of at least equal fair market value.

According to 36 CFR 59 (Code of Federal Regulations), NPS will consider conversion requests if a number of prerequisites have been met, including evaluating all practical alternatives, establishing fair market value of the property to be converted, acquiring replacement property of equivalent usefulness and location, etc.

In summary, based on the LWCF requirements, the dedication of the additional RoW is not permitted without the acquisition of equivalent replacement property.

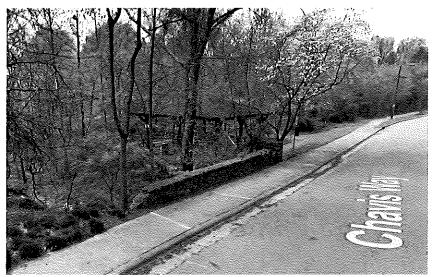
Existing Stream Buffers

As indicated in the attached site plan, Little Rock Creek is subject to two separate regulatory overlays:

- 1) The Neuse River Riparian Stream Buffer rules prohibit any changes within 30' of the stream banks and limit most changes 30'-50' from stream banks.
- 2) A perpetual conservation easement granted to the State of North Carolina in 2002 effectively prohibits all activity within the easement withou approval by NCDENR.

Little Rock Creek provides substantial public benefit as a natural resource and one of the few remaining visible creeks in downtown Raleigh.

These two stream buffers adjoin the existing sidewalk for @493LF of Chavis Way frontage and effectively prohibit any changes within their boundaries, negating the purpose of the RoW increase and utility easement.



Overall view of stream buffer



Street view of stream buffer showing existing slope immediately adjacent to existing sidewalk

Existing Topography and Historic Resources

As indicated in the attached site plan, there is a small wedge of land at the fork in the Creek that falls outside of the stream buffers. A historically-designated picnic shelter is located in this area within @17' of the existing RoW and @4' below the level of the sidewalk. Additionally, there is a historically-designated stone bridge wall immediately adjacent to the shelter that is inside the existing RoW. The historic picnic shelter and wall provide substantial public benefit as contributing historic resources for the park.

Any modifications to the existing street width would require the removal of the historic stone wall. Expansion of the RoW (especially with a slope easement) and the introduction of the 5' utility easement will encroach into the footprint of the historic picnic shelter.



View of picnic shelter (pre-renovation) showing existing topography



View of historic stone wall

Existing Trees

As indicated in the attached site plan, there are @68 mature trees located within or immediately adjacent to the existing 60' RoW line.

The tree-lined park frontage on Chavis Way is one of the defining characteristics of the park and provides substantial public benefit to park visitors and to the surrounding property owners on the other side of Chavis Way.

Expansion of the RoW and the introduction of the 5' utility easement will significantly encroach into the drip line of @52 of these trees, causing a significant negative impact.



View of existing trees at Chavis Way (looking north)



View of existing trees at Chavis Way (looking north)



View of existing trees at northeast corner of park (looking northwest)

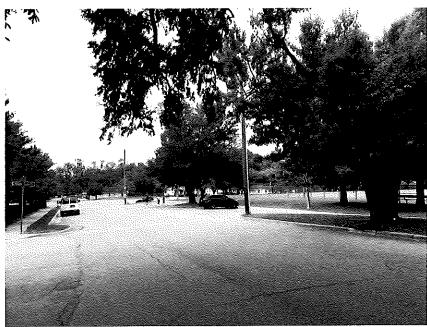


View of existing trees at north side of park (looking west)

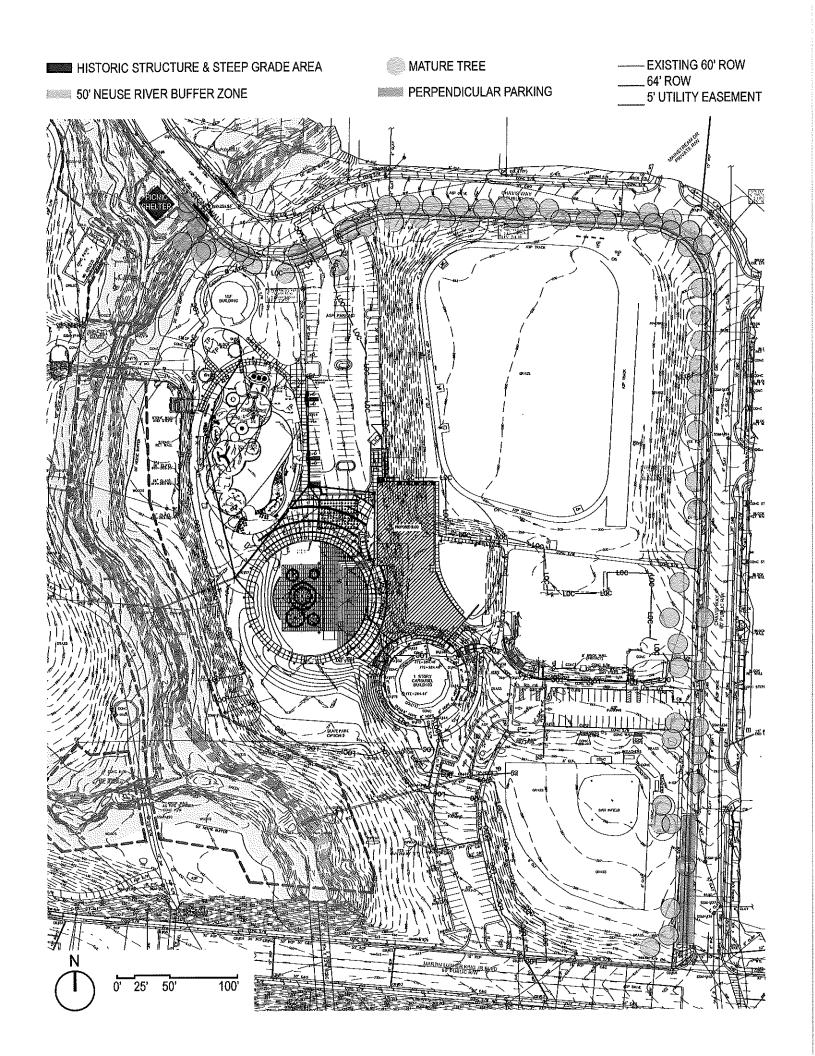
Existing Head-in Parking

As indicated in the attached site plan, there are @20 head-in parking spaces at the southern end of Chavis Way near the intersection of Martin Luther King Blvd.

This atypical existing parking arrangement provides public benefit as much-needed public parking for both park users and for residents on the other side of Chavis Way and is also home to a significant existing tree.



View of existing head-in parking and mature tree at southeast corner of park (looking south)



1703958305 RALEIGH CITY OF PO BOX 590

RALEIGH NC 27602-0590

1703948671 HOWZE, ALPHA L JR HEIRS GEORGE SAUNDERS 500 ROSE POINT DR CARY NC 27518-8212

1703953318 RALEIGH CITY OF PO BOX 590 RALEIGH NC 27602-0590

1713040529 HINTON, MATTHEW L 514 MARTIN LUTHER KING JR BLVD RALEIGH NC 27601-2478

1713041578 RALEIGH CITY OF PO BOX 590 RALEIGH NC 27602-0590

1713051920 HOUSING AUTH CITY OF RALEIGH 900 HAYNES ST RALEIGH NC 27604-1462

1713053587 HOUSING AUTH CITY OF RALEIGH 900 HAYNES ST RALEIGH NC 27604-1462 1703943897 NORTH CAROLINA STATE OF STATE PROPERTY OFFICE 116 W JONES ST RALEIGH NC 27603-1300

1703949579 COCOPALM PROPERTIES LLC PO BOX 91742 RALEIGH NC 27675-1742

1703953754 RALEIGH CITY OF PO BOX 590 RALEIGH NC 27602-0590

1713040578 CLARK, CONSTANCE J 516 MARTIN LUTHER KING JR BLVD RALEIGH NC 27601-2478

1713044852 HOUSING AUTH CITY OF RALEIGH 900 HAYNES ST RALEIGH NC 27604-1462

1713052858 HOUSING AUTH CITY OF RALEIGH 900 HAYNES ST RALEIGH NC 27604-1462

1713054802 CHAVIS SENIOR HOUSING LLC 900 HAYNES ST RALEIGH NC 27604-1462 1703948621 RALEIGH CITY OF C/O JOHN S CLARK JR 602 DECATUR DR WILMINGTON NC 28403-2723

1703952099 NORTH CAROLINA STATE OF STATE PROPERTY OFFICE 116 W JONES ST RALEIGH NC 27603-1300

1703968042 WAKE COUNTY OF WAKE COUNTY ATTORNEY'S OFFICE PO BOX 550 RALEIGH NC 27602-0550

1713041528 RAGLAND, STEVE RAGLAND, CAROLYN J JR 518 MARTIN LUTHER KING JR BLVD RALEIGH NC 27601-2478

1713044908 CAPITOL AREA DEVELOPMENTS INC 900 HAYNES ST RALEIGH NC 27604-1462

1713053273 CAPITOL AREA DEVELOPMENTS INC 900 HAYNES ST RALEIGH NC 27604-1462